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January 8, 2009

**VIA HAND DELIVERY &
ELECTRONIC MAIL**

The Honorable Shira A. Scheindlin
United States District Court
Southern District of New York
500 Pearl Street — Room 1620
New York, New York 10007

Re: Plaintiffs' Pre-Conference Letter

Dear Judge Scheindlin:

Plaintiffs respectfully submit this reply letter in advance of the January 15, 2009, status conference.

Plaintiffs' Agenda Items:

1) City of New York's Challenge to Shell Defendants' most recent privilege logs

Plaintiff City of New York seeks the Court's assistance in resolving ongoing problems with the Shell privilege log, which continue to impair the City's ability to prosecute fully its case against the Shell Defendants. The City has elected not to appeal PTO 42, but rather to evaluate on their own merits the claims of privilege contained in Shell's most recent set of privilege logs, as briefly noted at the December court conference. The City has identified among the documents listed on Shell's most recent set of privilege logs materials that Shell previously produced to the plaintiffs in prior MTBE litigations. In addition to noting the facial impropriety of claiming privilege for documents that have already been produced, counsel for the City has compared these documents with the privilege log entries purporting to describe them, and has determined that Shell is grossly misrepresenting the documents in question, for which no valid privilege claim exists. Accordingly, the City seeks *in camera* review of a subset of the documents Shell currently claims as privileged, and an order compelling production of these documents as warranted by the results of the *in camera* review. These issues, and the City's specific request for relief, are described in further detail in a separate letter to Your Honor, served yesterday.

2) Certain Defendants' Responses to the City's Pipeline Discovery

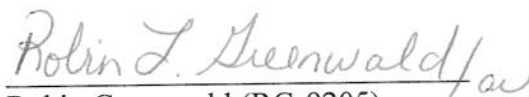
The City has been meeting and conferring with certain defendants regarding their responses to the City's Fourth Set of Interrogatories Regarding Pipelines and Requests for Admissions to all Defendants regarding Pipelines (collectively, "Pipeline Discovery Requests") served November 12, 2008. The Pipeline Discovery Requests seek admissions and information concerning defendants' placement of gasoline containing MTBE into the Colonial, Sun, Harbor, and Buckeye Pipelines. The City is concerned about, among other things, the reasonableness of certain defendants' investigation of potentially responsive information. While many defendants either have provided adequate responses or have agreed to amend their responses a few defendants still have not. The City expects to resolve these issues with these remaining defendants before the conference but, if unsuccessful, plans to seek the Court's assistance.

Similarly, the City is in the process of confirming with those defendants that have agreed to provide amended responses a deadline for responses that will not delay completion of the City's expert rebuttal covering these pipeline issues (due February 6, 2009). Again, the City expects to resolve this matter before the conference but, if unsuccessful, plans to seek the Court's assistance to avoid any significant disruption of the expert discovery schedule.

Respectfully submitted,

WEITZ & LUXENBERG, P.C.

By:



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cc: All Counsel of Record